



Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: Kearny Spring Co.

File: B-256923

Date: August 8, 1994

Timothy H. Power, Esq., for the protester.
Allan I. Aasmaa, Esq., and Donald R. Jayne, Esq., General
Services Administration, for the agency.
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of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Agency reasonably canceled a solicitation for leased office space where the current space requirements decreased from those described in the original solicitation due to staffing level reductions and funding limitations and where on resolicitation the potential exists for increased competition based on the current space requirements.

DECISION

Kearny Spring Co. protests the cancellation of solicitation for offers (SFO) No. GS-09B-93806, issued by the General Services Administration (GSA) for office and related space for the Department of Agriculture's Food and Nutrition Service (FNS) in California. The protester contends that GSA lacked a reasonable basis to cancel the SFO.

We deny the protest.

In June 1993, FNS submitted standard form (SF) 81, captioned "Request for Space," to GSA, notifying GSA of its requirements for 28,430 net usable square feet (NUSF) of space for 154 personnel in the geographic service area of San Francisco/Oakland, California. FNS specified its square footage requirements for primary office and office support space, general storage space, and special space. In response to FNS' space request, GSA placed advertisements in local newspapers announcing its desire to lease a minimum of 28,430 to a maximum of 29,852 NUSF of office and related space in either San Francisco or Oakland.

On August 5, following a market survey, GSA issued the SFO for a minimum of 27,837 to a maximum of 29,229 NUSF of office and related space in a quality building of sound and substantial construction for a lease term of 5 to 10 years. The SFO required that the building be located in either San Francisco or Oakland. The SFO included the square footage requirements for the necessary offices and rooms. The SFO stated that the award would be made to the most advantageous offeror, with price being considered more important than the combination of technical evaluation factors (which were, in descending order of importance, meeting the occupancy date, offering the required space on a single floor, offering inside parking, and offering the required space on contiguous floors).

Several firms, including the protester, which currently leases a building in San Francisco to FNS, submitted initial offers by the August 20 closing time. The protester's offer was included in the competitive range. Following discussions with all competitive range offerors and the submission of revised proposals, GSA received best and final offers by the closing time on November 30.

By letter dated December 30, GSA's realty specialist requested FNS' concurrence regarding the award of a lease to the protester, deemed the most advantageous offeror, price and technical evaluation factors considered, for 28,512 NUSF of space in Oakland. By letter dated January 21, 1994, FNS requested, as a result of staffing level reductions and funding limitations, that GSA reduce the amount of space to be leased by 1,800 to 2,500 NUSF. The realty specialist agreed to a 1,458 NUSF reduction. By letter dated March 2, the realty specialist forwarded to the protester the proposed lease for 27,054 NUSF of space. In this letter, the realty specialist explained that once the lease was executed by the protester, this would constitute its offer to lease space to the government and that its offer would remain open until accepted by the government. On March 11, the protester returned the executed lease to GSA.

On March 15, GSA's realty specialist and contracting officer met with FNS' deputy regional administrator to discuss FNS' requirements for less NUSF of space than reflected in the SFO and FNS' desire to remain in San Francisco, rather than relocating to Oakland. On March 23, the contracting officer issued a determination and findings stating his conclusion that it was in the best interest of the government to cancel

the SFO and to resolicit. The reasons given for the cancellation were FNS' reduction in its space requirements due to staffing level reductions and funding limitations, and FNS' desire to remain in San Francisco, as opposed to relocating to Oakland, in the interests of efficiency and minimizing travel time between FNS and other government agencies located in San Francisco with which FNS regularly conducts business.

In its protest filed with our Office on April 6, the protester recognizes that a decrease in space requirements can reasonably justify cancellation of an SFO. However, the protester argues that in this case, the decrease in FNS' space requirements from the NUSF to have been awarded under the proposed lease was not substantial enough to reasonably justify GSA's decision to cancel the SFO. The protester maintains that GSA should have proceeded with the award to the firm under the original SFO.

In May, during the pendency of this protest, FNS submitted a revised SF 81 to GSA, notifying GSA of its revised requirements for 23,445 NUSF of space for 138 personnel in the revised geographic service area of San Francisco. FNS specified its square footage requirements for primary office and office support space, general storage space, and special space. In response to FNS' space request, GSA placed an advertisement in a local newspaper announcing its desire to lease a minimum of 23,445 to a maximum of 24,617 NUSF of office and related space in San Francisco.

To justify cancellation of a solicitation for leased space, the agency need only show a reasonable basis to cancel the procurement. Denwood Properties Corp., 72 Comp. Gen. 181 (1993), 93-1 CPD ¶ 380. Where space requirements have decreased from those specified in an SFO, cancellation rather than award for the amount and type of square footage contemplated under the SFO generally is appropriate. Id.

Here, with respect to the reduction in FNS' space requirements, the minimum of 27,837 NUSF reflected in the SFO overstates FNS' current space requirements for 23,445 NUSF, based on the revised SF 81 (May 1994), by approximately 16 percent. In addition, FNS' original SF 81 (June 1993) for 28,430 NUSF overstates FNS' current space requirements by approximately 18 percent. In support of FNS' current requirements for less NUSF, a comparison of the 1993 and 1994 SF 81s filed by FNS with GSA shows that FNS' personnel base has decreased by approximately 10 percent, from 154 to 138 personnel. In addition, due to funding limitations concerning FNS' special space requirements, FNS has, among other items, proposed to

reconfigure some of its special space by eliminating built-in storage and shelving in several areas, eliminating nonsafety related requirements in the computer rooms, modifying the conference room requirements, and requiring that private offices be located in the center of the building.

We believe that FNS' reduction in its current space requirements from those originally requested and reflected in the SFO due to staffing level reductions and funding limitations was sufficient to reasonably justify GSA's decision to cancel the SFO. If GSA proceeded with an award based on the NUSF requirements under the original SFO, the government would be unreasonably required to spend money for an amount and type of square footage which overstates and no longer satisfies FNS' current needs. We do not think the government should have to incur such an obligation.

Moreover, as a result of the reduction in FNS' minimum NUSF requirements, GSA expects increased competition on resolicitation. In this regard, those firms which were precluded from competing under the original SFO because their available building space was less than what was minimally required under the SFO may be eligible to compete on resolicitation based on FNS' current reduced NUSF requirements. We think that this potential for increased competition also reasonably justifies GSA's decision to cancel the SFO since more competition should yield the most advantageous rental rate for the government.

Therefore, based on the decrease in FNS' current space requirements from those described in the original SFO due to staffing level reductions and funding limitations at FNS and the potential for increased competition which exists based on FNS' current space requirements, we conclude that GSA reasonably canceled the SFO.

Accordingly, the protest is denied.¹

/s/ Ronald Berger
for Robert P. Murphy
Acting General Counsel

¹The protester maintains that in lieu of canceling the SFO, GSA simply could have modified after award the terms of the lease for its building in San Francisco to reflect FNS' current space requirements. As we have concluded above, GSA has reasonably justified its decision to cancel and resolicit, rather than to proceed with an award under the original SFO.